

## ***A CAUTIONARY TALE — SAD BUT TRUE...***

by LTC Bobby Don Gifford

***Editor's Note: The following story is true. The names have been changed to protect the innocent...***

"Checking the block," he said to himself. "That's all this is, just checking the block so I can get downrange." As these thoughts echo through his head, the voice in the background is that of an attorney from the JAG office. Words such as "will," "guardianship," "SGLI," and "trusts" all float through the air. The Soldier nods politely and mutters a "Roger that, Sir." With a "good luck" and handshake from the attorney, the Soldier heads off for yet another appointment to check another block.

Sound familiar? Sure it does. It started the day you joined the military. This story is different though. It is one that can happen all too easily. It is about the consequences of not "taking care of business."

On one mid-winter day in 2005, the parents of SPC John Henry were notified of the death of their son while he was serving in Iraq. SPC Henry was divorced and had a child. Before his death, SPC Henry completed the "Service Members Group Life Insurance (SGLI) Election and Certificate" to designate who should receive the insurance proceeds upon his death. SPC Henry designated his son as the principal beneficiary, to receive 100% of the funds. He wanted a future for his son in the event of his demise. What he did not do, and perhaps did not realize could be done, was to include special language in the SGLI form placing the funds into a trust.

When the Casualty Assistance Officer from the Army visited the family of SPC Henry, he inquired about the location of SPC Henry's will. No one knew whether a will existed or where it might be located. In a last will and testament, a guardian and trustee could have been named, someone SPC Henry trusted, someone who would look after the distribution of his insurance proceeds and personal property, and take care of any other matters left unattended.

After SPC Henry's death, Tina Fox, his ex-wife, filed a claim for death benefits on behalf of their child. She was informed that she would need to be the court-appointed guardian or conservator of the child's property. Because no last will and testament was found and there was no mention of a trust having been set up for the child, Tina had the authority to assert herself in the management of the insurance proceeds. She went to court and petitioned to be appointed guardian of the child. Upon the granting of the guardianship, Tina soon received \$400,000 in SGLI proceeds, as well as a \$50,000 Death Gratuity and Social Security benefits for the child.

As with a Shakespearean tale, this one is filled with misdeeds and tragedy. In less than one year, Tina Fox burned through the money with expenses such as a \$12,000 vacation to San Antonio, \$4,000 for a trip to Las Vegas as a gift to her new boyfriend who had recently been released from prison, \$400 at Booger Red's night club, \$800 on a single visit to Walmart, \$2,000 in Avon products, as well as roughly \$32,000 in monetary gifts to her boyfriend, brother, father, and cousins. The money was essentially all gone.

"I would never do anything to hurt my son," Tina Fox claimed as she stood before a federal judge facing sentencing for the embezzlement of those funds. As she was sentenced to three years in federal prison and ordered to pay back the \$362,644 dollars she went through in less than a year, the judge told her that "your words ring hollow."

If the clock could be turned back, SPC Henry would undoubtedly have done things differently. He would have ensured that his SGLI beneficiary designation included trust language for his young son. He would have also ensured that his parents knew where his last will testament was located. And undoubtedly that last will and testament would have specifically spelled out the wishes of this Soldier as to how his insurance proceeds and personal property were to be managed and distributed in the event of his death. "Checking the block" is a part of military life, but you should take the time to prepare as if you might die tomorrow, just in case you do not live to a ripe old age.

***LTC Bobby Don Gifford is an Army Reserve JAG who is a federal prosecutor in Oklahoma City in civilian life. He prosecuted the real "Tina Fox" in federal court.***